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**Representative of the Secretary-General on  
Internally Displaced Persons**



**The Brookings-SAIS Project on  
Internal Displacement**

# ***A Framework for Action on Internal Displacement in the Americas***

## **REGIONAL SEMINAR ON INTERNAL DISPLACEMENT IN THE AMERICAS**

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## **Framework for Action**

This *Framework* was developed at a Regional Seminar on Internal Displacement in the Americas, held in Mexico City in February 2004. While the *Framework* applies specifically to the Americas, it should prove relevant to other parts of the world as well. Its primary focus is on national responsibility and the steps governments can take in responding to situations of internal displacement. At the same time, it recognizes the important role that regional and international actors can play in reinforcing national responsibility.

### ***National Responsibility***

The key elements of national responsibility in situations of internal displacement can be identified as follows:

#### **1) Raising national awareness of the plight of IDPs and of responsibilities towards them**

A critical first step toward effective national response to internal displacement is acknowledgement of the problem of internal displacement in a country and of the national responsibility to address it. While Colombia has acknowledged the problem for several years, in Mexico this important first step has been taken only recently. In Peru and Guatemala, it needs to be recognized that the problem of internal displacement persists even though the conflicts have long ended.

However this step itself will not be sufficient. Raising national awareness also must mean building a national consensus around the issue, making internal displacement a national priority and promoting solidarity with the displaced. Promoting national solidarity with the displaced is critical towards removing the ethnic, racial, and ideological stigmas IDPs typically suffer in Latin America. These stigmas put IDPs at risk, discourage them from making their needs known, augment their invisibility, and make reintegration difficult due to their increased marginalization.

Raising national awareness, therefore, should include mass sensitization campaigns that reach all relevant authorities, including the military and police, and also extend into the public sphere, so that national responsibility for addressing internal displacement becomes a concept embraced and implemented by all parts of society. Such campaigns should be developed in consultation with civil society and displaced communities.

#### **2) Ensuring that the national response covers all groups**

In the Americas, internal displacement is a phenomenon that disproportionately affects indigenous populations and minority ethnic groups, such as Colombians of African descent, as well as the rural poor. Once displaced, these already marginalized groups face further discrimination and difficulty in accessing protection and assistance. Because of language

barriers, they may have difficulty in communicating with government authorities and knowing their rights. In addition, displacement intensifies their marginalization and threatens them with loss of their cultural cohesiveness. Moreover, in the case of indigenous and other groups such as Afro-Colombians, they have a special attachment to the land, which makes displacement as well as alternative solutions other than return particularly difficult.

A national response must seek to remedy the fundamental social, economic, and political cleavages that give rise to the exclusion of certain groups from the political and economic life of the nation. Indeed, addressing a displacement crisis may present an opportunity to integrate marginalized groups into society and address the injustices and social divides that tear societies apart and fuel displacement.

### **3) Training government officials, the military, police, and parliamentarians**

Training government officials on issues of internal displacement is essential to ensuring awareness of their responsibilities towards the displaced and to strengthening national capacity to effectively discharge these responsibilities. In particular, training should target:

- Government authorities, especially those at the regional and local levels, who are in direct contact with the displaced;
- Military and police, who are expected to play a key role in ensuring the protection of IDPs; and
- Parliamentarians, who play a leading role in the development of legislation that can have important implications for IDPs and can also exert influence on the executive branch of government.

### **4) Collecting data on the numbers and conditions of IDPs**

Credible information on the numbers and conditions of the internally displaced is essential to designing effective programs for them. In particular, data should be disaggregated by age, gender, and other key indicators so that the specific needs of groups of IDPs, such as adolescents, women heads of household, the elderly, indigenous persons and ethnic groups, can be adequately addressed. Attention must also be given to the different categories of IDPs, including those from armed conflict, generalized violence, human rights violations, natural disasters, development projects, and those displaced by other causes, such as religious conflicts or fumigation, who sometimes are not recognized. Moreover, information is needed not only on IDPs in emergencies, but also those in protracted situations of displacement, especially in urban areas. These “long term IDPs” are among the most vulnerable but are often overlooked and considered indistinguishable from the urban poor. In this connection, the continued plight of IDPs in Guatemala and Peru must be acknowledged and accorded greater attention. The need for criteria on when internal displacement ends would help in this regard.

Information must also be collected about displaced populations who live in areas controlled by insurgent groups, and who are frequently inaccessible and forgotten. Furthermore, greater understanding of the linkages of internal displacement with other forms of migration, especially economic migration, was needed.

At the same time, efforts to collect data on IDPs should not in any way jeopardize their security, protection, and freedom of movement. In particular, there is a need to be sensitive to the situation of displaced persons who may be fearful of making themselves known and may see little incentive to do so, or who do not have proper documentation. Information collection must be geared to protecting and assisting the internally displaced and helping them find solutions to their plight. A number of NGOs, researchers, and international agencies have experience and expertise in gathering data about displaced populations and could be enlisted to assist governments in their data collection efforts. Cooperation could also assist in reducing discrepancies in statistics as well as in assessments of the needs of IDPs.

## **5) Developing national legislation upholding the rights of IDPs**

Developing and adopting national legislation for addressing the needs and protecting the rights of IDPs is an important indicator of national responsibility. Such legislation should be comprehensive, covering all causes and phases of displacement, and be based on the provisions in the *Guiding Principles*. It should include provisions to ensure that all IDPs have the documentation necessary to access services and entitlements provided for under the law. It must provide guidance on issues of land title and tenure as well as compensation and restitution of property lost or damaged in the course of displacement.

National legislation on IDPs must pay special attention to protecting the rights of internally displaced women and children, who constitute the majority of IDPs, as well as older IDPs, indigenous persons, and minorities and ethnic groups, all of whom have particular protection and assistance needs. Indeed, legislation should be developed in consultation with the different groups of IDPs and with civil society.

Of course, in the absence of effective implementation, even the most comprehensive legislation will have little practical effect. In Colombia, for example, Law 387 on internal displacement is often cited as a model piece of legislation, but one of largely only paper value. To help promote the implementation of legislation, monitoring, reporting, and enforcement mechanisms should be built into the law. Parliamentarians, in addition, should engage in dialogue with civil society to promote understanding of the law and help foster the political and social will to implement it.

## **6) Adopting a national policy on internal displacement**

The adoption of a national policy on internal displacement is a distinct, though complementary, measure to the enactment of national legislation. A national policy or plan of

action on internal displacement should, for instance, spell out the responsibilities of different government departments for responding to internal displacement as well as a mechanism for coordination among them.

Like the law, a national policy should cover all phases of displacement – ranging from prevention to protection and assistance once displaced, to durable solutions. It should encompass the various causes, including not only conflict and human rights violations, but also disasters and development projects. Particular emphasis should be placed on preventing displacement, with specific measures spelled out towards this end. The policy should also elaborate measures to address the needs of particular groups, such as women, children and the elderly, as well as indigenous and ethnic minorities who are displaced. While some countries in the region have undertaken important efforts to give attention to the needs of particular groups of IDPs, in other countries, there remains need for much greater focus in national policies and responses to such groups, especially to indigenous persons who are disproportionately affected by internal displacement in the Americas.

National policy, like legislation, should be developed in close consultation with the displaced and civil society. Moreover, the policy must be made widely and publicly known, especially to IDPs, in their own language and in a format they can easily understand.

#### **7) Making sure there is an interim response**

While promoting the development and adoption of national laws and policies on internal displacement, it must be recognized that these processes take time to develop, sometimes years. In the interim, IDPs cannot be left neglected. Measures can and must be taken by national authorities to address IDPs' immediate assistance, protection, and reintegration needs. Longer term policies should never be used as an excuse for setting aside the immediate needs of IDPs.

#### **8) Designating a national institutional focal point**

Critically important to the carrying out of national responsibility and promotion of an effective national response is the designation of a national institutional focal point for IDPs. This responsibility might be vested in one specific government agency. Another possibility would be to create a government committee, working group, or task force on IDPs that regularly brings together officials from the relevant ministries and departments to jointly discuss and coordinate national response.

Whatever the institutional option selected, it is essential for the institutional entity tasked with responsibility for IDPs to have a mandate for both assistance and protection. In addition, this body must have the political authority as well as adequate resources to carry out its mandate. Its staff must be trained on issues of internal displacement, including the *Guiding Principles*, and should be expected to play the leading role in national efforts to promote and

apply the *Principles* as well as to implement and enforce national law and policy on internal displacement.

The international community can provide support by encouraging governments to develop and strengthen national institutions for addressing internal displacement and providing technical assistance to these entities. A number of international organizations, for example, the Office for the UN High Commissioner for Human Rights and the UN Development Program have programs to support governments that establish national institutions for good governance and human rights.

#### **9) Establishing accountability mechanisms**

Procedures for regular monitoring and public reporting on the implementation of national law, policy and institutional responsibilities should be established and specified in national law and policy on internal displacement. Such procedures should be in addition to the critical monitoring and reporting role played by civil society. Moreover, international and regional actors should be given a key role to play in reinforcing national responsibility and accountability for the displaced (see below).

#### **10) Allocating adequate resources**

This is necessary not only to carry out effective responses, but also to signal that addressing the plight of the internally displaced is truly a national priority.

Where a government lacks the capacity to fully address the needs of the internally displaced, its indication, in particular through budgetary allocations, that the issue of internal displacement constitutes a national priority, can be important in attracting international financial assistance in support of national efforts.

#### **11) Expanding national human rights institutions' involvement with IDPs**

National human rights institutions (NHRIs) can play an important role in ensuring the promotion and protection of the rights of IDPs in a number of ways: (i) awareness-raising and human rights education, especially among national and local authorities, the police, and the military; (ii) providing advice to government officials and legislators on draft legislation relating to internal displacement; (iii) monitoring governments' implementation of national legislation as well as their compliance with international treaty obligations; and (iv) investigating individual IDP complaints.

NHRIs in the Americas have increasingly given attention to the plight of the internally displaced. They could, however, expand their activities, in particular by playing a greater role in follow-up to early warning, monitoring IDP conditions, and establishing a presence in

high-risk areas. Measures and resources to strengthen the independence of these institutions and promote their increased public accountability should be supported.

## **12) Cooperating closely with IDPs and civil society**

As articulated in the *Guiding Principles*, authorities have a responsibility to encourage and facilitate the participation of IDPs in the planning and implementation of policies and programs relevant to their situation. Too often, IDPs and those advocating on their behalf simply do not have “a seat at the table.” Yet, national as well as international responses to internal displacement can be significantly informed and enhanced through consultation with IDP associations and civil society. Efforts must therefore be made to proactively and systematically seek out the views of IDPs and to take them into account in the design of policies, laws, and programs affecting their security and well being.

To facilitate such exchange, formal consultation mechanisms such as *mesas de trabajo* or “working tables” should be established with IDP organizations as well as with civil society groups working with the internally displaced. Moreover, it is important to ensure that mechanisms exist to guarantee that these consultations influence responses by the government. The international community could play a valuable “bridging” role in fostering and facilitating such dialogue between the government and IDPs as well as civil society.

## **13) Enhancing security for IDPs and those working on their behalf**

The *Guiding Principles* provide that IDPs have a right to request and receive assistance and protection without risk of punishment or harm. An environment must exist where IDPs can do so. Yet, in all countries in the region, acute problems of insecurity, including deliberate killings, confront not only IDP communities and their leaders, but also those assisting them and advocating on their behalf. The lack of security has also had a chilling effect on research and analysis of the needs of IDPs, as in Guatemala following the killing of anthropologist Myrna Mack. Far greater efforts therefore must be made by governments to protect IDPs and communities at risk of displacement as well as those seeking to help them and to bring to justice those responsible for attacks against them. In addition, public information campaigns should be launched to sensitize government authorities, including the military and police as well as the public, about the humanitarian nature of the work of those assisting and advocating on behalf of IDPs, drawing attention to its benefits and dispelling misconceptions.

## **14) Addressing the climate of impunity**

Governments must make much greater efforts to break links between their armed forces and paramilitary groups, which are so often engaged in fomenting displacement and abuses against IDPs in the Americas. Further, those who commit crimes against displaced persons and their advocates must be brought to justice in order to end the climate of near impunity that further heightens their insecurity. There is a particularly urgent and widespread need to

do so currently in Colombia. In Peru and Guatemala, there remains a need to bring past abuses to justice. Throughout the region, special attention must be paid to acknowledging and addressing crimes of sexual violence and abuses against women and children, which remain taboo subjects in Latin American society.

### **15) Supporting durable solutions to internal displacement**

Governments have a responsibility, noted in the *Guiding Principles*, to establish the conditions enabling IDPs to return to their place of origin or, if they choose, to resettle elsewhere, to do so voluntarily and in safety and dignity.

Security is an essential element of durable solutions. Typically, this will require an end to the conflict or fundamental change in the circumstances that originally caused the displacement. In addition, protection measures must be put in place in areas of return or resettlement, including landmine clearance and re-establishment of the rule of law and measures to ensure respect for human rights. In the absence of conditions of safety, the government should not encourage return or resettlement. Under no circumstances should IDPs be forced to return home or resettle elsewhere in the country against their will. Where possible, international monitors should accompany returns in order to verify that the process is voluntary and that conditions of safety exist. The UN's agreement to participate in a return or resettlement process is a good barometer as to whether the necessary conditions are being met. For a government to proceed without this agreement is highly questionable and should be revisited.

Whether IDPs choose to return or resettle, they must be provided with reintegration assistance. However, for the most part, IDPs in Latin America have returned on their own with a minimum of support from their governments. Aiding their reintegration would project national responsibility. Governments must support the rebuilding of infrastructure and create opportunities to allow IDPs to establish livelihoods and self-sufficiency. Special attention must be given to ensuring the inclusion of women who, in the Americas and elsewhere, have been at the core of return and reconstruction processes and a key agent of social and economic development. Women's equal access to financial resources, credit and adequate income-generating programs must be ensured. Steps must be taken to make sure that IDPs are not subjected to discrimination upon their return or resettlement, have equal access to public services including health care and education, and can exercise their right to participate fully and equally in public affairs.

Further, the authorities have a responsibility to assist IDPs to recover property and possessions of which they were dispossessed as a result of their displacement or, when this is not possible, to obtain compensation. The fact that few of the displaced in Latin America possess title to land poses particular challenges, which require creative and just solutions. Indeed, restoring access to land to indigenous and ethnic minorities is a means of integrating them into the life of the nation and ending longstanding discrimination against them. Special attention must also be paid to ensure that property rights, which traditionally have been restricted to men, are accessible to women.



To be truly effective and lasting, solutions must include addressing the fundamental social, economic and political injustices that are typically the root causes of conflict and displacement. Efforts to promote reconciliation, for instance, through mechanisms such as the Truth and Reconciliation Commission in Peru and a similar process underway in Guatemala, are critical.

Decisions that “displacement has ended” must not be taken arbitrarily, without due regard to the situation and needs of the displaced. So long as specific needs and vulnerabilities resulting from their displacement persist (which may be the case for some time even after they return or resettle), IDPs will continue to require attention. IDPs in Peru and Guatemala, especially those who remain in urban areas, as well as returnees to Chiapas in Mexico, continue to suffer outstanding needs related to their displacement. The nature of assistance to IDPs nonetheless should change over time from strictly emergency humanitarian assistance. Indeed, strategies supporting self-sufficiency should be introduced as soon as possible so as to avoid creating long-term dependency and instead promote IDPs economic and social reintegration.

In short, supporting durable solutions for IDPs entails ensuring that they have options -- to voluntarily and safely return or resettle and the possibility to re-establish themselves, regain their livelihoods and reintegrate back into society.

#### **16) Addressing the situation of IDPs under the control of non-state actors**

Because IDPs may be under the control of non-state actors and out of reach of government assistance and protection, humanitarian dialogues should be opened, when possible, with non-state actors, who, under international humanitarian law and the *Guiding Principles*, have responsibilities to provide protection and assistance to IDPs. Should the government not be in a position to initiate such a dialogue, it should seek the support of outside actors such as the UN, NGOs or church groups to help open humanitarian space in politically protracted situations, such as in Colombia and Mexico. The protection and assistance of IDPs would benefit from efforts to open such humanitarian space.

#### ***Regional and International Efforts to Reinforce National Responsibility***

The engagement of the international community is an important way to reinforce national responsibility and accountability for addressing internal displacement, and is particularly critical in situations where political will for addressing the problem is inadequate at the national level. A regional approach is valuable when there exist similarities between situations of internal displacement in a region and when situations of displacement have the potential to spill over borders and destabilize neighboring countries.

The following recommendations, applicable to the Americas, emerged from the seminar:

**At the regional level:**

- The Inter-American Commission on Human Rights of the Organization of American States can play a valuable diplomatic and political role on the issue of internal displacement. Most notably it has taken part in monitoring, advocating, and reinforcing the legal obligations of states and has even engaged in the direct protection of IDPs. It should be supported in these efforts and given more resources to carry out its activities.
- The Commission's special rapporteur on IDPs has played a path-breaking role in promoting and protecting the rights of IDPs in the Americas. This position, which is currently vacant, should be retained and expeditiously filled.
- NGOs and others should be more proactive in bringing to the Inter-American Court of Human Rights cases concerning IDPs, for example on property issues. The Court has demonstrated an awareness and strong sensitivity to issues of internal displacement and can exert influence on governments.
- A regional network of NGOs engaged with the issue of internal displacement should be set up for the exchange of information, experiences, and best practices on internal displacement.
- The convening of a regional conference on displacement in the Americas, covering both refugees and IDPs and marking the 20<sup>th</sup> anniversary of the Cartagena Conference, should be explored.

**At the international level:**

There remains scope for much greater engagement by the international community, in particular the UN, with the problem of internal displacement in the Americas, with the aim of reinforcing national responsibility and accountability. Recommended steps include:

- Monitoring and reporting on the implementation of national laws and policies on internal displacement and advocating for the development of national legislation and policy where these do not already exist.
- Assessing whether government policies and programs accord with international human rights and humanitarian law as set forth in the *Guiding Principles*.
- Monitoring and reporting on the implementation of recommendations made by international human rights and humanitarian mechanisms. To this end, a follow-up visit to Colombia by the Representative of the UN Secretary-General on Internally Displaced Persons would be valuable. In addition, a mechanism should be created to provide the Representative with periodic reports and updated information from governments as well as NGOs on the degree of compliance with his recommendations.
- Integrating the issue of internal displacement into inter-governmental forums and processes, such as the "Group of 24" on Colombia, which have leverage with governments in the region.

- Translating into local languages and disseminating the *Guiding Principles* and related materials such as the *Handbook for Applying the Principles* and the *Annotations* as well as the UN IDP Protection Policy Paper.
- Building on the Policy Paper, a protection strategy should be developed to cover all phases of displacement: prevention, during displacement and during return/resettlement and reintegration. This would include establishing an enlarged UN presence in areas where IDPs' physical security is under threat and accompanying returns to verify conformity with international standards of voluntary return in safety and dignity. To undertake such measures, international actors themselves must have safe and unimpeded access to the displaced, which governments must take all possible measures to ensure.
- Speaking out against and refusing to support returns that violate international standards of voluntariness and safety, and advocating with governments to respect these standards and provide alternatives to return.
- Increasing support for the reintegration of IDPs after return or resettlement, including by addressing outstanding reintegration issues in Guatemala and Peru.
- Acknowledging that internal displacement is not yet over in certain countries, namely Peru and Guatemala, despite an end to the hostilities, and supporting the development of international criteria on when internal displacement ends.
- Assisting in property restitution and compensation, for example through the World Bank Post-Conflict Fund, which provides grants supporting IDPs in their efforts to recover property and land lost as a result of displacement.
- Providing for greater consultation with IDPs and NGOs when UN humanitarian action plans are designed.
- Promoting the integration of internal displacement into national plans for human rights, as has been done in Mexico with the human rights *Diagnóstico*, and taking measures to assist governments in carrying out these plans.
- Expanding the integration of internal displacement in gender equity programs and in programs for children, the elderly, minority groups and indigenous persons, to strengthen protection for and address the particular assistance and reintegration needs of these groups.
- Supporting the formation of IDP associations, including IDP women's associations.
- Facilitating dialogue between governments and IDPs and NGOs.
- Facilitating negotiations, where possible, between the government and non-state actors for the creation of humanitarian space and an end to conflict and monitoring the implementation of such agreements.
- Supporting governments, which demonstrate efforts to effectively discharge national responsibility for internal displacement, with technical cooperation as well as with assistance in resource mobilization and the administration of funds.